

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK CRETNEY,

Petitioner,

vs.

Civil Action No.
06-CV-15422

HON. BERNARD A. FRIEDMAN

FEDERAL BUREAU OF PRISONS,

Respondent.

**OPINION AND ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND DENYING PETITIONER'S APPLICATION
FOR WRIT OF HABEAS CORPUS**

This matter is presently before the Court on Petitioner's Application for Writ of Habeas Corpus, filed on December 7, 2006 ("Petitioner's Application") [docket entry 1]. Pursuant to the Court's order dated January 3, 2007, Respondent filed a response brief on January 31, 2007. Petitioner filed a reply on February 13, 2007. On November 19, 2007, Magistrate Judge Paul J. Komives issued a Report and Recommendation ("R&R"), in which he recommends that the Court deny Petitioner's Application.

Plaintiff filed timely objections to the Magistrate Judge's R&R on November 30, 2007. The Court reviews *de novo* those portions of the R&R to which a specific objection has been made. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In his objections, Petitioner claims that "Judge Komives cites no case precedents that allow this Court to deny relief. In fact, [Magistrate Judge Komives] only cites four circuit courts, that actually support Petitioner's claims in § 2241." R&R at 3. Petitioner further declares that the R&R "is for the purpose of delay, of the relief that is

so justifiably due to this Petitioner.” *Id.*

The Court has had the opportunity to fully review this matter. After conducting a *de novo* review of the issues presented, the Court finds that Magistrate Judge Komives reached the proper conclusions for the proper reasons. The Court will therefore accept and adopt the Magistrate Judge’s R&R as the findings and conclusions of the Court and deny Petitioner’s Application.

Moreover, the Court finds Petitioner’s objections meritless. Magistrate Judge Komives cites more than four cases in his R&R, and, contrary to Petitioner’s assertion otherwise, those cases clearly do allow this Court to deny Petitioner’s Application. The Court stresses that it is undisputed among the lower courts that, notwithstanding the possible invalidity of 28 C.F.R. §§ 570.20-.21, “federal prisoners are not entitled to an immediate or continuing evaluation regarding their eligibility for [Residential Reentry Center] placement more than six months prior to their projected release date.” *Swarzentruber v. Holinka*, 2007 WL 3237637, at *2 (D. Minn. October 30, 2007); *see also Dortch v. Morrison*, 2006 WL 2788181, at *1 (D. Minn. Sept. 26, 2006) (holding that “the obligation under 18 U.S.C. § 3624(c) to place prisoners in an environment that affords them the opportunity to prepare for re-entry does not extend beyond the last six months of the sentence”); *Rodriguez-Calderon v. Lindsay*, 2007 WL 2756878, at *2 (M.D. Pa. Sept. 20, 2007) (reiterating a prior court’s holding that “an inmate has no right to compel consideration of Residential Reentry Center placement under the factors presented in § 3621(b) where . . . the prisoner is not approaching the final six (6) months of his prison term”). The Court directs Petitioner to Magistrate Judge Komives’ R&R for additional cases on point. *See* R&R at 4. Petitioner’s projected release date is October 5, 2010. Therefore, Petitioner’s challenge is well over two years premature. Accordingly,

IT IS ORDERED that Petitioner's objections to Magistrate Judge Komives' R&R are overruled.

IT IS FURTHER ORDERED that Magistrate Judge Komives' R&R of November 19, 2007, is accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that Petitioner's Application for Writ of Habeas Corpus is denied as unripe.

____s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

Dated: December 5, 2007
Detroit, Michigan

I hereby certify that a copy of the foregoing document was served upon counsel of record by electronic and/or first-class mail.

s/Carol Mullins
Case Manager to Chief Judge Friedman